

EXHIBIT 6

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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4

5 IN RE: TERRORIST :
6 ATTACKS ON : 03-MDL-1570
7 SEPTEMBER 11, 2001 : (GBD) (SN)

8 -----

9 - - -

10 Friday, October 4, 2019

11 - - -

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13 CONFIDENTIAL MATERIAL

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15 Videotaped deposition of JUDGE ALAN
16 FINE, taken pursuant to notice, was held at the
17 law offices of Jones Day, 600 Brickell Avenue,
18 Miami, Florida, beginning at 9:54 a.m., on the
19 above date, before Lisa V. Feissner, RDR, CRR,
20 Notary Public.

21

22 - - -

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 2 I N D E X
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4	Testimony of:	
5	JUDGE ALAN FINE	PAGE
6	By Mr. Goldman	9, 131
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 9 E X H I B I T S
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	FINE	
11	EXHIBIT NO. DESCRIPTION	PAGE
12	269 Notice of Oral Deposition of Alan Fine	10
13		
14	270 LexisNexis printout of State Department Briefing	24
15	Briefer: James Foley dated July 8, 1999	
16	PEC-DIB000803 - PEC-DIB000812	
17	271 Composite of documents	38
18	DIB_003159 - DIB_003177	
19	DIB_003187 - DIB_003219	
20	DIB_005640	
21	DIB_003221 - DIB_003241	
22	272 Copy of faxed article to Alan Fine, Esq. from Rob Ellison	97
23	dated 8th July, 1999	
24	DIB_003159 - DIB_003160	
	273 Copy of billing records	98
	DIB_003217 - DIB_003228	

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1 A. These are the second and the third
2 articles.

3 Q. The first article?

4 A. Was attached to a telefax that I
5 received the morning of July 12th. It was from
6 Rob Ellison. It was from a London paper. I
7 think it -- at least an English paper. I'm not
8 sure if it was a London paper.

9 Q. You indicated a couple of minutes
10 ago that you had two assignments. One was to
11 make inquiries with the U.S. government or
12 other government officials, and the second, to
13 explore a potential defamation claim. Did I
14 state that correctly?

15 A. Yes. And in connection with the
16 defamation claim, to try to correct the
17 information which we believed to be false.

18 Q. Let's deal with the first part of
19 your assignment, the inquiries with U.S.
20 government officials. What steps did you take
21 with regard to inquiring as to the veracity of
22 the allegations contained?

23 A. We -- I called the State
24 Department, attempting to reach Christopher

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1 Bush and Joe Reap. I was able to get
2 Christopher Bush on the phone.

3 Q. Could you spell the name of the
4 second person, if you could?

5 A. I believe it's R-E-A-P.

6 Q. Okay.

7 A. And I was referred to a
8 Mr. Kashkett --

9 Q. Could you spell that, if you could?

10 A. K-A-S-H-K-E-T-T.

11 -- as the person who would have the
12 most knowledge regarding any facts that could
13 possibly substantiate the allegations that were
14 made in the press reports.

15 Q. Why did you reach out to those
16 particular individuals -- the first two
17 particular individuals?

18 A. The press conference that was given
19 was by the Department of State, I believe a
20 Mr. Foley, and so we reached out to the State
21 Department since that's who was the one making
22 the statements. And Mr. Kashkett was a Middle
23 Eastern -- I think it was on the Middle Eastern
24 desk, and he was a counterterrorism expert,

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1 A. Yes.

2 Q. Was that by telephone or
3 electronically?

4 A. Telephone.

5 Q. And what, if anything, did that
6 individual tell you?

7 A. He said that we wouldn't find
8 anything in the name of Osama bin Laden and
9 that it would not be in any international wire
10 transfers, that it was either in domestic wire
11 transfers or withdrawals from accounts, through
12 other names.

13 Q. Did he give you the other names?

14 A. He did not.

15 Q. Did you ask him for the other
16 names?

17 A. Yes. That was the purpose for my
18 phone call. The bank had already done a search
19 for any accounts, any transfers from, any
20 transfers to Osama bin Laden with negative
21 results, meaning there was nothing. So we were
22 looking, what are the facts that support these
23 allegations? And I was referred to the guy who
24 was supposed to know, and he either didn't know

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1 or declined to tell me.

2 Q. Do you know which it was, that he
3 didn't know or whether he declined to tell you?

4 A. I do not.

5 Q. Did he tell you that, I can't give
6 you that information, or did he tell you that,
7 I don't know the information?

8 A. He didn't say either one. He just
9 didn't answer.

10 Q. When did the bank look to see if
11 there were any accounts in the name of Osama
12 bin Laden?

13 A. It was in two parts. In connection
14 with the fraud and embezzlement, the bank had
15 done an initial search to see if any of the
16 monies had any connection to any Islamic
17 institutions and whether or not they had any
18 connection to Osama bin Laden. The bank was
19 trying to figure out why this happened, how it
20 happened, where the money went. And there were
21 negative results, meaning there was no contact
22 in any way, shape, or form with Osama bin Laden
23 then. And either at that time or both at that
24 time and immediately after the article came

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1 out, Mr. Ellison conducted a search to see if
2 there were any accounts in the name of Osama
3 bin Laden, prior to my learning about it on
4 July 12th when I came into the office.

5 Q. So that was prior to your learning
6 about it and obviously prior to your call with
7 the State Department?

8 A. Yes.

9 Q. Do you know, as part of the broader
10 search, the embezzlement search, what names the
11 bank used for its search?

12 A. I do not, other than "Osama bin
13 Laden."

14 Q. Who handled that search, the
15 broader -- I'll use the word "broader search"?

16 A. Rob Ellison, who had direct access
17 with terminal access in his office to the
18 bank's records.

19 Q. So it was Mr. Ellison who conducted
20 that search, or his subordinates? Or do you
21 know?

22 A. My understanding is that he did it.
23 Any assistance that he needed was provided.
24 That was my understanding at all times.

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1 Just a little context, at the time
2 he was hired, the bank had been, in effect,
3 intervened in, and the government was calling
4 the shots rather than a private owner. So he
5 was hired with the mandate to find out what
6 happened, how it happened, the mechanics, and
7 then to try to get all the money back.

8 Q. Can you please elaborate a little
9 bit more as to the allegations, the substance
10 of this alleged embezzlement? You said it was
11 several hundred million dollars?

12 A. Yeah, 242, 244 million dollars.

13 Q. That's real money.

14 A. It's a whole lot of money, and it
15 wiped out the equity of the people that owned
16 the bank, or a large portion of it.

17 Q. So the government of the UAE
18 intervened in some manner as a result of that
19 episode?

20 A. That's correct.

21 Q. And when you say "intervened," do
22 you mean assumed management control? Do you
23 mean ownership control? Do you mean
24 supervision? Or something else?

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1 A. There was a change in ownership.
2 My understanding is, the government took a
3 minority ownership position. But the
4 management was answerable directly to the
5 Central Bank and the Ruler or the Ruler's
6 office.

7 Q. So during all times that you were
8 dealing with the bank and Mr. Ellison, the
9 control or supervision of the bank was the
10 government?

11 A. That's my understanding, yes.

12 Q. And when did this first take place?
13 When did the government take that position, to
14 the best of your knowledge?

15 A. I believe it was early 1998. The
16 Central Bank was auditing on a daily basis
17 during a period of time in '98, maybe even into
18 1999.

19 Q. And throughout your relationship
20 with the bank with regard to this -- these two
21 matters, the bank was under the control and
22 supervision of the government of the UAE?

23 A. Yes.

24 Q. Let's get a bit deeper, if we can,

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1 into the allegations of this embezzlement.

2 What was the nature of the allegation, besides

3 240 million dollars missing?

4 A. An individual from outside the

5 bank, who I'll call Sissoko -- he has a very

6 long name, but... Sissoko -- influenced the

7 president of the bank, who was the head of the

8 Dubai branch, to wire-transfer, at the

9 direction of Sissoko, over two hundred million

10 dollars. Part of the total loss was the

11 covering of credit card charges, but it was

12 almost all wire transfers.

13 Q. And do you have an approximate

14 spelling for the court reporter?

15 A. S-I-S-S-O-K-O.

16 Q. And did you ultimately determine

17 where that money went?

18 A. We were able to determine with

19 precision the initial place where it was

20 transferred to, and a very large portion of our

21 job was tracing it after that, and yes, we were

22 able to find that it came to rest in the

23 ownership of various pieces of real estate, was

24 given away as gifts either in cash or in

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1 starting an airline.

2 Q. Okay. And where was he based?

3 A. In Mali.

4 Q. Okay. Was action ever taken as a
5 result -- legal action, either civil or
6 criminal, with regard to these
7 misappropriations?

8 A. Yes.

9 Q. And where did that take place?

10 A. We had a lawsuit in Miami. There
11 was a lawsuit in -- there were multiple
12 lawsuits in New York. There were attempts to
13 have him extradited that were unsuccessful.
14 Right now I can't remember if we initiated
15 litigation in other places.

16 Q. And that's fair, sir.

17 You indicated there were inquiries
18 made if this had anything to do with any sort
19 of -- I'll use the word loosely -- Islamic
20 group?

21 A. Mm-hmm.

22 Q. Why were those inquiries made?

23 A. The genesis of the relationship
24 between Sissoko and Mohammed Ayyoub, who was

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1 A. Or -- it's possible that it was the
2 Emir of the UAE. But I thought it was
3 referring to Dubai.

4 Q. Looking at the next paragraph,
5 quote, As you know, we have been in regular
6 touch with U.S. Customs and with the Justice
7 Department and no mention has been made of any
8 of these issues, closed quote.

9 In what regard was there regular
10 communications with Justice and Customs?

11 A. So Mr. Sissoko was charged, and I
12 believe he pled guilty, to the falsification of
13 export certificates on two helicopters that he
14 was trying to move from Miami to Africa, I
15 think Mali specifically, and so the Justice
16 Department prosecuted him but the investigation
17 was through Customs because that's who controls
18 the export certificates investigations.

19 Q. And you were the point person on
20 those communications?

21 A. I was involved. I would believe
22 that Mr. Ellison had some direct communication
23 with them other than my direct communication
24 with them.

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1 Q. Skipping down a couple of
2 paragraphs, referring to a KPMG investigation.

3 A. Yeah.

4 Q. What was that investigation, sir,
5 if you know?

6 A. Yeah. Once the fraud and
7 embezzlement were discovered, the bank not only
8 undertook to understand all of the facts of
9 where the money went in order to recover it,
10 but also to find out what at the bank needed to
11 be cleaned up in terms of internal controls so
12 that this type of thing couldn't happen in the
13 future. There was also a look-back at the
14 firm's auditor during the period of time that
15 the transfers took place because it was never
16 flagged in any way or brought to the attention
17 of any management by the auditors.

18 Q. Turning to the next page, 3160
19 Bates stamp.

20 A. Yep.

21 Q. Is that the first article that you
22 had referred to earlier in your testimony?

23 A. Exactly. Yes, it is. This was
24 page 2 of the fax. Page 1 was the letter we

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1 Q. Who was there on behalf of DIB?

2 MR. COTTREAU: Objection,
3 mischaracterizes prior testimony.

4 A. I don't think there was anyone who
5 was there on behalf of DIB.

6 Q. Okay. But somebody relayed this
7 information --

8 A. Yes.

9 Q. -- to Mr. Ellison?

10 A. So when he was hired, his coming
11 into the bank required approval from the
12 Ruler's court or the Ruler's office or the
13 Ruler himself. I don't know specifically. But
14 it was beyond the bank. And he had worked for
15 banks in that part of the world previously, and
16 he had other contacts outside the bank.

17 Q. Got you. With regard -- you had
18 indicated that there was two accounts that were
19 then subsequently closed?

20 A. Yes.

21 Q. Can you elaborate a bit more on
22 that?

23 A. I don't think so.

24 Q. What do you know?

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1 behalf of the UAE or Dubai who may have been
2 involved?

3 A. No.

4 MR. GOLDMAN: Off the record.

5 (A discussion was held off the
6 record.)

7 MR. GOLDMAN: Go back on the
8 record.

9 Steve?

10 MR. COTTREAU: Thank you.

11 EXAMINATION

12 BY MR. COTTREAU:

13 Q. Judge Fine, where did you grow up?

14 A. Fort Lauderdale, Florida.

15 Q. And where did you attend high
16 school?

17 A. Nova High School.

18 Q. And where did you go to college?

19 A. Princeton University.

20 Q. Did you play any sports in college?

21 A. I did.

22 Q. And what did you do in college with
23 respect to athletic activity?

24 A. I was on the swim team.

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1 Q. Varsity swim team?

2 A. Yes.

3 Q. For how long?

4 A. Four years.

5 Q. Did you graduate from Princeton

6 University?

7 A. Yes.

8 Q. What year did you graduate in?

9 A. 1979.

10 Q. Did you have a degree in connection
11 with your graduation?

12 A. Yes.

13 Q. What was the degree?

14 A. AB. And it's usually BA, but at
15 Princeton it's an AB.

16 Q. And what was your major?

17 A. Politics and American studies.

18 Q. Did you receive any special honors
19 from Princeton University?

20 A. Yes.

21 Q. What did you receive?

22 A. I graduated magna cum laude, and I
23 received the Willard Thorp -- I was a co-winner
24 of the Willard Thorp Thesis Prize for -- in

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1 American studies.

2 Q. After you graduated from Princeton
3 University, did you go to law school or did you
4 work?

5 A. Both, but I -- I worked for one
6 year after law school -- after college, and
7 then I went to law school.

8 Q. And where did you work for one year
9 after you graduated from Princeton University?

10 A. The Nuclear Regulatory Commission.

11 Q. Is that part of the U.S.
12 government?

13 A. Yes.

14 Q. So you were a U.S. government
15 employee after graduating from Princeton
16 University?

17 A. Yes.

18 Q. Where did you go to law school?

19 A. The University of Florida.

20 Q. Did you graduate from University of
21 Florida law school?

22 A. Yes.

23 Q. And when did you graduate?

24 A. 1983.

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1 A. Three.

2 Q. Are you a Muslim?

3 A. No.

4 Q. What religion are you?

5 A. I'm Jewish.

6 Q. Do you belong to a synagogue?

7 A. I do.

8 Q. What synagogue do you belong to?

9 A. Temple Beth Am.

10 Q. How long have you been a member of
11 Temple Beth Am?

12 A. About 25 years.

13 Q. Have you ever held any positions at
14 the temple?

15 A. Yes.

16 Q. What positions are those?

17 A. I was temple counsel, which in
18 effect is general counsel for the temple, from
19 2009 until December 2012. And that position
20 made me a member of the executive board. And
21 then I believe I was off the board -- I may
22 have been asked to stay on from December of '12
23 to May of '13, but I'm not sure. And then in
24 May of '13, I came back on the board as a

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1 effort to make sure that money was as wisely
2 spent as possible.

3 Q. Did you ever serve as the
4 externship director for child welfare at FIU?

5 A. Yes, I did.

6 Q. And what was that job?

7 A. I was, in effect, a professor for a
8 seminar for law students on the topic of child
9 welfare.

10 Q. And what is FIU?

11 A. Florida International University.

12 Q. Is that a local college here?

13 A. And law school, yes, and med
14 school.

15 Q. What is your current job?

16 A. I'm a circuit court judge.

17 Q. And what is a circuit court judge?

18 A. I'm a trial-level judge. Circuit
19 court is the court that has jurisdiction -- in
20 civil cases, there's a minimum threshold, and
21 then it's an unlimited amount in general
22 jurisdiction. And the other divisions are the
23 juvenile division, where I served on the
24 dependency side for four years; criminal

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1 Q. You mentioned earlier that -- in
2 response to a question by Mr. Goldman that you
3 I think served for 28 years as a commercial
4 litigator prior to becoming a judge?

5 A. Yes. My first year out of law
6 school, I clerked for a federal district court
7 judge, and then I joined a law firm, and then
8 from that point on I was in private practice
9 until February 1st of 2013.

10 Q. And what does it mean to be a clerk
11 for a judge?

12 A. I was clerking for a federal
13 district court judge, which is a trial-level
14 judge. It's a full-time, paid position, doing
15 research and writing for the judge, assisting
16 in -- almost always on the civil cases. Even
17 though the judge had a criminal docket, the law
18 clerks worked the vast majority of the time
19 helping review pleadings that had been filed
20 and doing research and draft orders.

21 Q. And while you were a commercial
22 litigator before you became a judge, did there
23 come a time when you started your own law firm?

24 A. Yes.

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1 A. Yes.

2 Q. What was your understanding of what
3 an Islamic bank was?

4 A. My principal understanding of the
5 difference between an Islamic bank and any
6 other bank is that the bank was not allowed to
7 charge interest under Islamic law.

8 Q. And did there ever come a time when
9 you did legal work for Dubai Islamic Bank?

10 A. Yes.

11 Q. And when did you begin working for
12 DIB?

13 A. 1998.

14 Q. And what were you initially hired
15 by DIB to do in 1998?

16 A. Assist the bank in tracing money
17 that had been stolen from the bank, identifying
18 sources of recovery and then pursuing those
19 sources of recovery.

20 Q. And how did you come to the
21 attention of Dubai Islamic Bank?

22 A. My former law partner, William
23 Richey, was the one contacted by Rob Ellison,
24 who was working for the bank, and he brought me

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1 in and we co-counseled the representation.

2 Q. And do you know how Bill Richey
3 came to the attention of Dubai Islamic Bank?

4 A. My recollection is that there was a
5 lawyer in London with whom Bill had worked that
6 Mr. Ellison knew, and that that lawyer, whose
7 first name is Tony but I can't remember the
8 last name, that he referred Mr. Ellison to
9 Bill.

10 Q. While you did legal work for Dubai
11 Islamic Bank, who was your primary point of
12 contact at Dubai Islamic Bank?

13 A. Rob Ellison.

14 Q. What was Rob Ellison's role at
15 Dubai Islamic Bank?

16 A. He was hired to assist in the
17 internal -- to be in charge of the
18 investigation into what happened with this
19 fraud and embezzlement, how did it happen, why
20 did it happen, try to get the money back. That
21 was my understanding of his initial role at the
22 bank.

23 Q. Is the fraud and embezzlement that
24 you just referred to generally referred to as

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1 the Sissoko fraud?

2 A. I call it the Sissoko fraud, but
3 yes.

4 Q. Sissoko. At any point in time, did
5 you ever learn any facts that the Sissoko fraud
6 had anything to do whatsoever with terrorism?

7 A. No. And to the contrary.

8 Q. What's your understanding of
9 Mr. Ellison's background or expertise?

10 A. That he had assisted numerous other
11 financial institutions in identifying problems
12 within the bank and pursuing -- in the event
13 that there were losses, assisting the bank in
14 putting together a legal team to go after the
15 money.

16 Q. Did Rob Ellison have extensive
17 knowledge about banking?

18 A. Yes.

19 Q. Did he understand bank records, in
20 your experience?

21 A. Yes.

22 Q. Do you know when Rob Ellison began
23 working for Dubai Islamic Bank?

24 A. Either late '97 or early '98 is my

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1 Q. And with respect to investigating
2 the allegations in The New York Times and in
3 other publications about Dubai Islamic Bank and
4 a potential connection to Osama bin Laden, what
5 is your understanding of Rob Ellison's
6 authority to act for the bank?

7 A. In terms of conducting an
8 investigation, unlimited. With regard to
9 filing a lawsuit against The New York Times or
10 even sending a demand letter, he sought -- I
11 know he sought approval for those things.

12 Q. With respect to your work for Dubai
13 Islamic Bank, did you receive all of your
14 approvals from Rob Ellison?

15 A. Yes.

16 Q. Besides communicating in person and
17 over the telephone, how else did you regularly
18 communicate with Rob Ellison?

19 A. Telefax.

20 Q. Facsimile?

21 A. Yes.

22 Q. And what is a facsimile?

23 A. It's a form of telecommunications,
24 it travels over the telephone lines and it

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1 Q. And what degree of confidence did
2 you have in the work of Rob Ellison?

3 A. Complete confidence.

4 Q. You mentioned in a prior answer
5 that Rob Ellison is now deceased?

6 A. Yeah.

7 Q. Do you recall approximately when he
8 passed away?

9 A. In 2002.

10 Q. Do you know what he died of, what
11 caused his death?

12 A. No. Other than to describe it as
13 natural causes.

14 Q. After you were hired to look into
15 the Sissoko fraud and embezzlement, did there
16 ever come a time when your engagement with
17 Dubai Islamic Bank expanded?

18 A. Yes.

19 Q. When was that?

20 A. In July 1999.

21 Q. And how did your engagement expand?

22 A. Mr. Ellison made me aware of a
23 newspaper article that made allegations
24 detrimental to the bank, and we started to

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1 investigate those allegations.

2 MR. COTTREAU: Can we take a break?

3 VIDEO OPERATOR: We are now going
4 off the video record. The time is
5 12:06.

6 (Recess from 12:06 p.m. until
7 12:17 p.m.)

8 (Exhibit Fine-272 marked for
9 identification and attached to the
10 transcript.)

11 VIDEO OPERATOR: We are now going
12 back on the video record. The time is
13 12:17.

14 BY MR. COTTREAU:

15 Q. Judge Fine, I'm going to show you
16 what's been marked as Exhibit 272. It's a
17 two-page document Bates stamped DIB_003159 to
18 3160. Ask you to take a look at this document
19 and if you could tell me whether you recognize
20 the document.

21 A. Yes, I do. It's the first two
22 pages of Exhibit 271. But I also recognize it
23 from before that.

24 Q. Do you recognize Exhibit 272 as a

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1 fax that you received from Rob Ellison on or
2 about July '11, 1999?

3 A. Yes.

4 Q. And did you have an understanding
5 as to whether this letter began the expansion
6 of your representation for Dubai Islamic Bank?

7 A. Yes.

8 Q. And what was that expansion?

9 A. At the time of this fax,
10 Mr. Ellison was aware of an article from a
11 London paper that he attached as -- to the
12 cover page and asking us to assist in
13 investigating the allegations that were made in
14 the article and to advise the bank accordingly.

15 Q. And did you accept that invitation
16 to expand your engagement for Dubai Islamic
17 Bank?

18 A. Yes.

19 (Exhibit Fine-273 marked for
20 identification and attached to the
21 transcript.)

22 BY MR. COTTREAU:

23 Q. Let me show you what's been marked
24 as Exhibit 273. Ask you if you could take a

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1 connection to Osama bin Laden, did Bill Richey
2 work on those matters with you?

3 A. Yes.

4 Q. When you received the fax at
5 Exhibit 272 on July 12th, what do you recall
6 doing in response?

7 A. The request in the telefax was that
8 Mr. Ellison would appreciate my thoughts on the
9 issue. So I called him and we spoke about it.
10 And I reached out to lawyers that we were
11 working with in Washington, D.C. We were
12 working with them on the Sissoko matter, and
13 because they were in D.C. and this information
14 appeared to originate in D.C., I wanted to get
15 their thoughts as well.

16 Q. Okay. Let me try to break that
17 down. Do you recall -- what do you recall from
18 your conversation with Rob Ellison about
19 setting up a game plan on July 12th to
20 investigate?

21 A. The main thing was to try to find
22 out if there were any facts to support the
23 allegations that had been made in the
24 newspaper, and to get information that would

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1 assist the bank in continuing its investigation
2 internally into those allegations.

3 Q. Did Mr. Ellison tell you anything
4 about the facts on the ground as he understood
5 it in Dubai in terms of whether the allegations
6 were true or false?

7 A. Yes. He was adamant that they were
8 false, that the bank had no relationship with
9 Osama bin Laden, that the bank had
10 cross-referenced all of the transactions
11 involved in the Sissoko case with bin Laden's
12 name and he did not show up on that, that that
13 had been done maybe six months before I got
14 started working -- well, some months before I
15 got started working for the bank. And then as
16 a result of this press release, done another
17 check for that name in whatever variation of
18 spellings it might be.

19 Q. And when you say "that name," you
20 mean the name of Osama bin Laden?

21 A. Exactly.

22 Q. Did Rob Ellison tell you anything
23 about whether the bank was willing to cooperate
24 with the United States government when you

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1 spoke with him on July 12th?

2 A. Yes.

3 Q. What did he tell you?

4 A. Not only that the bank was willing
5 to cooperate, but that I, on behalf of the
6 bank, should extend the offer of cooperation to
7 the government officials that I was going to
8 speak to because that was part of getting the
9 information from them, that we wanted to act on
10 it. We took the allegation very seriously and
11 wanted to deal with it.

12 Q. And I direct your attention to your
13 billing records at Exhibit 273 on the second
14 page. The page is marked DIB_005640. There's
15 a narrative in the middle of that page, a
16 paragraph that describes some things that were
17 done. Were those things that are described on
18 page 5640 of Exhibit 273 actions taken by you?

19 A. Yes.

20 Q. And on what date did you take those
21 actions?

22 A. Monday, July 12th.

23 Q. And what is the first action that's
24 reflected in the entry on page 5640 of Exhibit

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1 273?

2 A. That I reviewed the article that
3 Mr. Ellison sent.

4 Q. Is that the article in the London
5 Times?

6 A. Yes. It's page 2 of the fax,
7 Exhibit 272.

8 Q. What's the second task that you
9 took on Monday, July 12th, 1999 as reflected in
10 your billing records?

11 A. I called Mr. Ellison.

12 Q. And you recall that conversation?

13 A. Yes.

14 Q. And that's the one that you just
15 detailed?

16 A. Yes.

17 Q. And what's the third action that
18 you took on Monday, July 12th, as reflected in
19 your billing records on page 2 of Exhibit 273?

20 A. The third action reflected in my
21 records is a telephone conference with
22 Christopher Bush at the United States
23 Department of State in the public affairs
24 office.

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1 Q. And do you know how Christopher
2 Bush came to your attention?

3 A. I believe Mr. Richey is the one who
4 suggested that I call him.

5 Q. And I'd just note that there's no
6 conversation with Bill Richey on this billing
7 record of page 2 of 273. Do you find that
8 unusual?

9 A. I wish it was unique. I wish it
10 was the only time I didn't put something in my
11 time records that I actually did. But while I
12 make every effort to put everything in, I'm
13 sure that more than a few times over the course
14 of my career I did not include everything in my
15 time records.

16 Q. Okay. And what do you recall with
17 respect to your conversation with Christopher
18 Bush at the U.S. State Department?

19 A. The only information that I got
20 from him -- he might have been the one to tell
21 me about the press conference and that there
22 had been a press release, and I'm pretty sure
23 he's the person that gave me the name of
24 Mr. Kashkett as the person who would have the

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1 information I was looking for, that the bank
2 was looking for.

3 (Exhibit Fine-274 marked for
4 identification and attached to the
5 transcript.)

6 BY MR. COTTREAU:

7 Q. I'm going to show you what's been
8 marked as Exhibit 274. Are these handwritten
9 notes that relate -- well, let me ask you this
10 question. Do you recognize this document?

11 A. Yes.

12 Q. And what is Exhibit 274?

13 A. Those are my handwritten notes from
14 I believe July 12th, 1999.

15 Q. And do you think these handwritten
16 notes reflect the discovery of Christopher Bush
17 as a person that you wanted to reach out to?

18 A. Yes.

19 (Exhibit Fine-275 marked for
20 identification and attached to the
21 transcript.)

22 BY MR. COTTREAU:

23 Q. I show you what's been marked as
24 Exhibit 275. Do you recognize Exhibit 275?

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1 A. Yes.

2 Q. What is Exhibit 275?

3 A. A copy of my handwritten notes from
4 I believe July 15th, 1999.

5 Q. If I could have you turn to page
6 DIB_003222 of Exhibit 273.

7 A. Yes.

8 Q. There's a record on the middle of
9 the page dated 7-15-99. Is that a record that
10 relates to activities that you conducted on
11 July 15th, 1999?

12 A. Yes.

13 Q. And can you tell me what activity
14 is reflected on July 15, 1999 in your billing
15 records?

16 A. Although misspelled, my telephone
17 conversation with Steve Kashkett.

18 Q. And does it reflect that Steve
19 Kashkett is the Middle East chief of the State
20 Department counterterrorism section?

21 A. That is what I was told in advance
22 and what he represented himself to be.

23 Q. Why did you reach out to the U.S.
24 State Department?

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1 A. Because the information in The New
2 York Times article appeared to have come from
3 the State Department. The State Department was
4 the only agency going public through the press
5 conference that Mr. Foley had on -- I believe
6 it was July 8th. So that's the agency that was
7 up front, out in public. We called them.

8 Q. And is the State Department part of
9 the United States federal government?

10 A. Yes.

11 Q. And what are the responsibilities
12 generally as you understand them to be of the
13 United States State Department?

14 A. To manage our relations with other
15 countries.

16 Q. Going back to your conversation on
17 July 12th, the first day that you received the
18 fax from Rob Ellison asking you to help with
19 respect to the allegations made in the press
20 concerning Dubai Islamic Bank and a possible
21 connection to Osama bin Laden, you had a
22 conversation with Christopher Bush. What do
23 you recall about that conversation?

24 A. I explained to him why I was

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1 calling, which was that the bank had been made
2 aware of this article and the bank had
3 conducted a search for anything in Osama bin
4 Laden's name. We came up with nothing. We
5 wanted to know if they had any information that
6 could help identify any facts related to the
7 allegations.

8 Q. Did you express any opinion or
9 statement to Christopher Bush about whether the
10 bank was willing to cooperate with the United
11 States government?

12 A. Yes. Mr. Ellison asked me to --
13 well, instructed me to make sure that the
14 government knew that we wanted to do this in a
15 cooperative way, that we took the allegations
16 seriously, that we wanted to know what they
17 were talking about. Because initially -- I
18 mean, at that time, we had no idea where this
19 was coming from.

20 Q. And did Christopher Bush at the
21 U.S. State Department, during your conversation
22 with him on July 12th, 1999, tell you anything
23 about whether the allegations in the press were
24 true or not about Dubai Islamic Bank?

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1 A. I don't think he had any
2 information, and he did not provide me with any
3 specific information. If I'm not mistaken, he
4 is the person who referred me to Mr. Kashkett.

5 Q. If I could direct your attention to
6 Exhibit 274 which are your handwritten notes
7 from July 12th, 1999, there's a notation at the
8 bottom of those notes. Can you read that for
9 me, that starts with "public," I think?

10 A. Public affairs - counterterrorism,
11 Joe Reap, 202-647-8682.

12 Q. Do you recall whether you ever
13 spoke with Joe Reap?

14 A. I know I tried to get in touch with
15 him. I can't tell you today whether I actually
16 spoke to him or not. It was either him or
17 Mr. Bush who gave me the information about
18 Mr. Kashkett. But neither of them gave me any
19 substantive information about the allegations.

20 Q. If I could direct your attention to
21 Exhibit 275 which are your handwritten notes of
22 your conversation with Steve Kashkett on July
23 15th, 1999. What do those notes reflect?

24 A. The highlights of my conversation

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1 with Mr. Kashkett.

2 Q. And can you tell me everything that
3 you recall about the conversation with Steve
4 Kashkett at the U.S. State Department on July
5 15th, 1999?

6 A. I identified myself, who I was
7 representing, why I was calling, told him that
8 the bank took the allegations seriously and
9 wanted to work with the government of the
10 United States to get this information, and if
11 there was information to be gotten, to deal
12 with it appropriately. He indicated that we
13 would not likely find anything in the name of
14 Osama bin Laden, that transactions would be --
15 would have been done through a different
16 name -- that's the reference to a "through
17 cut" -- that we shouldn't be looking at
18 international wire transfers but that it would
19 be withdrawals, or possibly a wire transfer
20 within the United Arab Emirates.

21 Q. And during the call, did you tell
22 him that you had already, along with Rob
23 Ellison, conducted some investigation into the
24 allegations?

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1 A. Yes.

2 Q. And what did you tell him in that
3 regard?

4 A. That we -- "we," meaning Rob
5 Ellison, had informed me that he had -- or
6 conducted an investigation into whether or not
7 Osama bin Laden had an account at the bank or
8 was the sender or recipient of any wire
9 transfer. I understood at that point any kind
10 of wire transfer, but it may have been
11 international wire transfers.

12 Q. Did you ask Steve Kashkett, on July
13 15th, 1999, for any information regarding any
14 connection between Dubai Islamic Bank and Osama
15 bin Laden?

16 A. Yes. That was the main purpose of
17 the phone call was to find out if he knew or
18 was willing to give us any information to
19 assist in our investigation of those
20 allegations.

21 Q. And what types of information might
22 have been helpful to you in connection with
23 investigating the allegations?

24 A. A name of a person, a name of a

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1 company, an account number, a date, in-coming
2 wire, outgoing wire, the nature of the
3 transaction. Really anything to get us
4 started.

5 Q. And did Steve Kashkett, in response
6 to your inquiries on July 15th, 1999, give you
7 any information that the U.S. government
8 possessed that could have been helpful?

9 A. No. I mean, he didn't give me any
10 name, he didn't give me an account number, he
11 didn't give me a date. The only information he
12 gave me was that it was more likely than not a
13 withdrawal from a bank account that they
14 were -- they had reason to believe that it was
15 a withdrawal from a bank account or a domestic
16 wire transfer, meaning within the UAE.

17 Q. Did Steve Kashkett at the U.S.
18 State Department, on July 15th, 1999, tell you
19 any information about when the transactions
20 that might have been under investigation
21 occurred?

22 A. Not at all.

23 Q. And how did you leave it with
24 Mr. Kashkett at the end of the phone call on

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1 July 15th, 1999?

2 A. Here I am, here's my number, here's
3 my telefax number. If you learn of anything or
4 become willing to share anything, please call
5 me.

6 Q. And at any time during your
7 engagement for Dubai Islamic Bank, did anyone
8 at the U.S. government ever call you with any
9 concerns about any accounts at Dubai Islamic
10 Bank related to Osama bin Laden or terrorism
11 generally?

12 A. No.

13 (Exhibit Fine-276 marked for
14 identification and attached to the
15 transcript.)

16 BY MR. COTTREAU:

17 Q. Let me show you what's been marked
18 as Exhibit 276. Ask you to take a look at this
19 document and tell me whether you recognize it.

20 A. I do.

21 Q. What is Exhibit 276?

22 A. It's a photocopy of a letter that I
23 co-authored on behalf of Dubai Islamic Bank to
24 The New York Times.

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1 Q. Did you send this letter at Exhibit
2 276 to The New York Times?

3 A. Yes.

4 Q. Can you read the first sentence of
5 the second paragraph of your letter?

6 A. DIB has never dealt directly with
7 Osama bin Laden, and has no knowledge or reason
8 to believe that anyone acting on bin Laden's
9 behalf had been laundering his money through
10 DIB.

11 Q. When you wrote and sent that
12 statement to The New York Times, did you
13 believe it to be true?

14 A. Yes.

15 Q. At the end of Exhibit 276, you say,
16 Accordingly, we demand that you print a
17 retraction of the portions of the article
18 listed above.

19 Did The New York Times retract its
20 statements?

21 A. No.

22 Q. Do you think they took your request
23 for a retraction seriously?

24 MR. GOLDMAN: Objection.

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1 what people would remember would be the name of
2 the bank and Osama bin Laden and terrorist
3 financing, even if the bank legally was able to
4 clear its name.

5 Q. After the decision not to sue The
6 New York Times, did you ever have any other
7 discussion with Rob Ellison about the U.S.
8 government contacting Dubai Islamic Bank
9 seeking its cooperation?

10 A. Yes.

11 Q. What do you recall?

12 A. Sometime in 2001, Rob passed along
13 that there had been information provided by the
14 United States government, either directly to
15 DIB or more likely through the Central Bank,
16 which led to the bank's closing of two
17 accounts.

18 Q. Do you know what those accounts
19 were?

20 A. No, I don't.

21 Q. Do you know whether those accounts
22 related in any way to Osama bin Laden?

23 A. No.

24 Q. Did Rob Ellison ever tell you that

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1 the Dubai Islamic Bank was reluctant to
2 cooperate with the U.S. government?

3 A. No. To the contrary.

4 Q. What did he tell you in that
5 regard?

6 A. That the bank wanted to know if
7 there were any facts to support the allegations
8 that were made, starting with the newspaper
9 articles; that we opened lines of communication
10 through the U.S. lawyers, me, through the bank;
11 and that the message that they were giving to
12 the Central Bank and to the Ruler's office in
13 Dubai was, we want to cooperate. If there's
14 any account that's open that shouldn't be open,
15 tell us about it, tell us how to find it. If
16 you know what it is, tell us the account. If
17 you have any information that could lead us to
18 helping find it, please give us that
19 information.

20 Q. Other than the U.S. government
21 approaching either directly or indirectly Dubai
22 Islamic Bank to close two accounts, are you
23 aware of any other request by the U.S.
24 government to Dubai Islamic Bank?

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1 A. No.

2 Q. At any time during your
3 representation of Dubai Islamic Bank, did you
4 become aware of bank accounts in Osama bin
5 Laden's name or that were otherwise connected
6 to Osama bin Laden?

7 A. No.

8 (Exhibit Fine-277 marked for
9 identification and attached to the
10 transcript.)

11 BY MR. COTTREAU:

12 Q. Let me show you what's been marked
13 as Exhibit 277. It's a document Bates stamped
14 DIB_003187 through 3189. Ask you to take a
15 look at it and let me know whether you
16 recognize this document.

17 MR. GOLDMAN: What number was this
18 again?

19 MR. COTTREAU: 277.

20 A. I do.

21 Q. What is Exhibit 277?

22 A. It is a draft -- it's a photocopy
23 of a draft of a letter to Mr. Liptak, who was
24 the attorney who responded on behalf of the

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1 The New York Times thinks?

2 MR. COTTREAU: I'm just going to
3 restate the question.

4 Q. Do you think The New York Times was
5 being fair to Dubai Islamic Bank?

6 MR. GOLDMAN: Objection. What does
7 the word "fair" mean?

8 A. I didn't think they were -- no, I
9 did not think they were being fair.

10 Q. Why not?

11 A. We knew that the language about the
12 bank having issues or having a need to be
13 cleaned up was the direct and exclusively, as
14 far as we knew, the result of the affair with
15 Sissoko and Ayyoub, and it had nothing to do
16 with Osama bin Laden. And we wanted to make
17 that point to The New York Times because we
18 thought that the bank was being portrayed in a
19 false light based on the interweaving of
20 factually true information about the bank being
21 cleaned up, and then information which we
22 believed to be untrue about any connection with
23 Osama bin Laden.

24 Q. If I could direct your attention to

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1 the fourth paragraph of Exhibit 277 on page
2 DIB_003187, it says in that draft, First, we
3 would like you to know unequivocally that in
4 the wake of the allegations appearing in your
5 newspaper --

6 Are those allegations the
7 allegations from July 1999?

8 A. Yes.

9 Q. Continuing, the draft letter says,
10 the banking authorities in Dubai have conducted
11 an exhaustive search of the records of Dubai
12 Islamic Bank and have found no indication that
13 Osama bin Laden was ever a customer of the
14 bank.

15 Do you see that?

16 A. I do.

17 Q. Did you believe that to be true in
18 November of 2001?

19 A. Yes, I did.

20 Q. It further says that the banking
21 authorities, have found no indication that
22 Osama bin Laden ... ever had a relationship
23 with the bank, much less one approved -- I'm
24 sorry -- arranged with the approval of the

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1 officials who control the bank.

2 Do you see that?

3 A. Yes.

4 Q. Did you believe that to be true in
5 November of 2001?

6 A. Yes.

7 Q. When it says "banking authorities"
8 in this draft letter, what does that mean to
9 you?

10 A. The Central Bank.

11 Q. The Central Bank of the UAE, United
12 Arab Emirates?

13 A. Yes. The regulator for Dubai
14 Islamic Bank.

15 Q. Do you know how Ed Licitra learned
16 that the UAE Central Bank in Dubai conducted an
17 exhaustive search of the records of Dubai
18 Islamic Bank and never found any connection to
19 Osama bin Laden?

20 A. Either through me or Rob Ellison.

21 Q. Did you send the draft at Exhibit
22 277 to The New York Times?

23 A. No.

24 Q. Why not?

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1 Q. As a man of Jewish religion, how
2 were you treated by Dubai Islamic Bank?

3 MR. GOLDMAN: Objection.

4 A. I don't think it was an issue in
5 any way. I never felt treated unprofessionally
6 in any way by the bank.

7 Q. Did you ever hear anybody at the
8 bank say anything anti-Semitic about you or
9 other people of the Jewish faith?

10 A. No.

11 Q. Did anyone at the bank, Dubai
12 Islamic Bank, ever try to convert you to Islam?

13 A. Oh, no. No.

14 Q. Did anybody at the bank ever make
15 inappropriate comments about the Jewish faith?

16 A. No.

17 Q. How many years did you work with
18 Dubai Islamic Bank, approximately?

19 A. Four.

20 Q. And in those four years of working
21 with Dubai Islamic Bank, give or take some
22 time, did you ever have any reason to believe
23 that Dubai Islamic Bank supported terrorism of
24 any kind?

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1 A. No.

2 Q. In all of the years that you worked
3 with Dubai Islamic Bank, did you ever have any
4 reason to believe that Dubai Islamic Bank
5 supported violence of any kind?

6 A. No.

7 Q. And in all of your years of working
8 with Dubai Islamic Bank, did you ever have any
9 reason to believe that the bank wanted to
10 assist terrorists in any way?

11 A. No.

12 MR. COTTREAU: Thank you, Judge.

13 MR. GOLDMAN: Give me two minutes
14 for a bathroom break.

15 VIDEO OPERATOR: We are now going
16 off the video record. The time is
17 12:56.

18 (Recess from 12:56 p.m. until
19 1:03 p.m.)

20 VIDEO OPERATOR: We are now going
21 back on the video record. The time is
22 1:03.

23 EXAMINATION

24 BY MR. GOLDMAN: